

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2018

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.Nos. 13008 and 10108 of 2017
and

W.M.P. Nos. 13883, 11095 and 11096 of 2017

Shastri Nagar Tamilnadu,
Housing Board Shop,
Owners Welfare Association (Adyar),
rep by its Vice-President,
T.R.Sahadevan,
No.5 and 6, Baby Nagar,
First Main Road Extension,
Velacherry,
Chennai-600042.

...Petitioner in Both WPS.

Vs.

1.The Chairman,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035

2.The Director,
Tamil Nadu Housing Board,
Nandanam,
Chennai-600 035.

...Respondents in Both WPS.

Prayer in W.P. No.13008 of 2017: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from evicting the members of the petitioner Association, as furnished in the Members List - Ex.A.

Prayer in W.P. No.10108 of 2017 : Writ Petition filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus, calling for tender notice, published in Daily Thanthi, dated 02.02.2017 inviting for providing comprehensive architectural and engineering consultancy services for (a) Construction of Shopping cum office cum Residential complex in S. No.3 Pt. Block No.22 at Shastri Nagar, Velacherry Taluk, Chennai and (b) Construction of commercial cum

residential complex in S. No.26 part at Besant Nagar, Velacherry taluk where the members of the petitioner association are carrying on business / presently occupied by the members of the petitioner association, quash the same and direct the respondents not to demolish the building and in the event of demolishing and setting up new construction, direct the respondents to allot the same to the members of the petitioner association, who are presently occupying the building.

For Petitioner
in both W.P.s : Mr.M.Gnanasekar

For Respondents : Mr.V.Anandhamoorthy
in both W.P.s

COMMON ORDER

The relief sought for in the present writ petitions are to forbear the respondents from evicting the members of the petitioners' Association, as furnished in the members list along with the present writ petition and to call for tender notice, published in Daily Thanthi, dated 02.02.2017 inviting to provide comprehensive architectural and engineering consultancy services for (a) Construction of Shopping cum office cum Residential complex in S. No.3 Pt. Block No.22 at Shastri Nagar, Velacherry Taluk, Chennai and (b) Construction of commercial cum residential complex in S. No.26 part at Besant Nagar, Velacherry taluk where the members of the petitioner association are carrying on business / presently occupied by the members of the petitioner association, quash the same and direct the respondents not to demolish the building and in the event of demolishing and setting up new construction, direct the respondents to allot the same to the members of the petitioner association, who are presently occupying the building.

2. The learned counsel appearing on behalf of the writ petitioner made a submission that the members of the writ petitioner are the occupants of the commercial premises at S.No.3 part, Block No.22 at Shastri Nagar, Velacherry Taluk, Chennai. The members of the petitioner association were allotted shops for the purpose of running business and they are paying rent to the Tamil Nadu Housing Board for the past many years. The petitioner association are not committing any default in respect of payment of rent and therefore they are the legal occupants of the respective premises , allotted by the Tamil Nadu Housing Board.

3. The learned counsel appearing for the writ petitioner states that the respondents have now ordered for eviction of the members of petitioner association on the ground that the building is in dilapidated condition and the housing board has

taken a decision to demolish the premises and to re-construct the same.

4. The learned counsel is of an opinion that the building is in a good condition and by citing an erroneous reasons, the respondents are attempting to evict the writ petitioner from the premises. Thus, the respondents must be restrained from evicting the writ petitioner from the premises under their occupations.

5. The learned counsel appearing on behalf of the respondents disputed the contentions raised on behalf of the writ petitioner by stating that the commercial building at Shasthri Nagar is in a dilapidated condition and a policy decision has been taken by the Tamil Nadu Housing Board to demolish the building and reconstruct commercial building in that locality. As of now 47 shops are available. By demolishing the said 47 shops the Tamil Nadu Housing Board has proposed to construct more shops in that locality.

6. It is further contended that the Board has passed the resolution in Resolution No.9.06, dated 30.10.2009 that whenever the existing dilapidated building is going to be demolished and re-constructed, the shop owners / tenants in the existing building may be accommodated in the newly constructed complex on priority basis on the condition that they shall be ready to pay the cost of rent fixed by the Board after completion of re-construction of the building, so as to enable confidence among them that their interest will be protected by the Board.

7. The learned counsel for the respondents brought to the notice of this Court among 47 shops/open spaces/Single Person Quarters, 40 Nos. of members are sublet allottees (illegal occupants). Only in few cases, the original allottees are in occupation. Thus, the members of the Association has no loco standi to claim any such injunction against the Housing Board from evicting them.

8. This Court is of an opinion that the decision taken by the Housing Board to demolish the building is a policy decision and the same is the prerogative of the Administration. The Court cannot interfere with such policy decisions taken by the Housing Board for demolition of the old building and reconstruct new building and utilise the same for the benefit of the Housing Board or otherwise.

9. Admittedly, the members of the writ petitioner association are the tenants. Thus, their rights are also limited. The tenants cannot interfere with the policy decision of the Tamil Nadu Housing Board for demolition and re-construction of the old building. This being the legal

principles to be followed, the writ petitioners have not established any legal right so as to continue in the same premises for an unspecified period. Further, the Housing Board passed a resolution provided assurance to the occupants that their case will be considered after reconstruction of the new building. When such an assurance has given, the writ petitioner may not have any objection in respect of demolishing the old building and to reconstruct a new building.

10. In view of the assurance provided by way of Resolution, dated 30.10.2009, no further consideration is required in respect of the grounds raised in the writ petition. It is needless to state that while undertaking the process of allotment all the eligible and qualified persons who were the tenants are to be considered.

11. With these observations, the writ petitions stand dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.
vsi-2/jas

Sd/-

Assistant Registrar (CS V)

//True copy//

Sub Assistant Registrar

To

1.The Chairman,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035

2.The Director,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.

+2ccs to Mr.V.Anandhamoorthy, Advocate SR.No.73833

+2ccs to Mr.M.Gnanasekar, Advocate SR.Nos.73976 & 73977

KR/23/11/18

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